IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 282 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KANTIBHAI KARSANBHAI PATEL

Versus

DIVISIONAL CONTROLLER

Appearance:

1. Special Civil Application No. 282 of 2003

MR JASWANT K SHAH for Petitioner No. 1

MR YV VAGHELA for Petitioner No. 1

NOTICE SERVED BY DS for Respondent No. 1

MR ASHISH M DAGLI for Respondent No. 2

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 05/02/2003

ORAL JUDGEMENT

Rule. Mr. Ashish M. Dagli, learned counsel appears on behalf of the respondents and waives service of notice of Rule.

2. This petition is filed for a direction to the respondents authorities not to disturb the possession of the petitioner of the canteen premises situated at Visnagar S.T. Depot till the tender proceedings are finalized by the respondent no. 2. It is stated by the learned counsel for the petitioner that the petitioner is running canteen at Visnagar S.T. Depot since number of years and he is paying requisite tax and licence fees for the same. The petitioner has participated in the tender proceedings in the year 1978 and the petitioner was the highest bider in the said tender proceedings. The possession of the canteen was given to the petitioner on the basis of the licence granted to the petitioner. As such, the petitioner is complying with terms and conditions of the petitioner Corporation. The period of the licence of the petitioner expired on 31-1-2003 and therefor he requires to hand over the possession of the canteen to the respondents. The respondents have published the tender on 27-8-2002.

3. Learned counsel for the petitioner submitted that the petitioner has already participated in the tender proceedings published on 27-8-2002 but the said tender proceedings are not finalized by the respondents till today. Therefore, the petitioner has requested this Court to permit the petitioner to continue the possession of the canteen till the aforesaid tender proceedings are finalized by the respondents.

4. Head the learned counsel for the parties and perused the relevant material on record.

5. Considering the facts and circumstances of the case, submissions made by the learned counsel for the parties and the material on record, the respondents are directed to call the petitioner before finalizing the tender filled in by the petitioner as well as other parties. Till the tender process is completed, the respondents are directed not to take possession of the canteen of the petitioner situated at Visnagar S.T. Depot. The petitioner shall continue to pay regularly the licence fee as well as the tax if any levied by the local authorities, till he occupies the possession of the canteen. In case, the petitioner fails to give highest offer in the negotiations and if the Corporation decides to give possession of the canteen in question, the

petitioner shall forthwith hand over the peaceful possession of the same to the respondent Corporation. The learned counsel for the parties are in agreement to the aforesaid terms and conditions.

6. In view of above, this petition is allowed. Rule is made absolute to the aforesaid extent, with no order as to costs. D.S. is permitted.

(Kundan Singh, J.)

/JVSatwara/